

REMARKS

This amendment is responsive to the Office Action of April 2, 2009. Reexamination and reconsideration of the application are respectfully requested.

The Office Action

Claim 1 stands rejected under 35 USC §112, second paragraph.

Claim 1 stands rejected under 35 USC §102(b) as anticipated by or, in the alternative, under 35 USC §103(a) as obvious over applicant's admitted prior art on pages 1–3 of the Specification in view of Fronk (US Patent No. 4,483,499).

Claims 2–10 stand rejected under 35 USC §103(a) as being unpatentable over applicant's admitted prior art on pages 1–3 and Fronk as applied to **claim 1**, and further in view of www.comco-ikarus.de/ (2003).

Specification

The amendments to the Specification submitted herewith are merely intended as clarifications and, as discussed in more detail below, to correct a mistranslation in ¶7.

35 USC §112

The phrase "that means with a maximum take-off weight (Maximal take of weight MTOW) each of 452.5 to 590 kg according to regulation" is not indefinite since it clearly defines and restricts the category to which this plane pertains. The abbreviation MTOW is a world wide standard abbreviation for Maximum Take Of Weight and any pilot is familiar with it. In Europe, the regulations state the so-called Ultralight

airplanes (in Switzerland they are called Ecolight aircraft) must not have a MTOW exceeding 452.5kg—otherwise, they are not admitted to this category. In the US, there is a category introduced which is called Sports Plane Category (SPC), which allows an airplane to have a MTOW of 1232 lbs (590 kg)—the US allows a higher MTOW in the SPC.

Claim 1 has been amended to recite "A light aeroplane ..., comprising an engine arranged ..., comprising a virtual flat cabin floor which does leave free an orthorhombic space over this virtual floor of at least 190cm in length, at least 45cm wide and at least 40 cm in height, whereby this space allows the reception of a person lying on a stretcher for air-transporting of said person." Therefore, **claim 1** recites a light aeroplane comprising a virtual flat cabin floor.

For the reasons discussed above, the Examiner's rejection under 35 USC §112 have been overcome. Therefore, all claims now meet the statutory requirements of 35 USC §112.

The Claims of the Present Application Distinguish Over the Cited References

Claim 1 recites a light aeroplane of the ultra light class and sport plane category, that means with an admitted maximum take-off weight (Maximally Take-off Weight MTOW) each of 452.5kg to 590kg according to respective regulations, comprising an engine arranged at the nose with tractor propellers and cabin cell arranged behind and being wide enough for two adjacent passenger seats, comprising a virtual flat cabin floor which does leave free an orthorhombic space over this virtual floor of at least 190cm in length, at least 45cm wide and at least 40 cm in height, whereby this space allows the reception of a person lying on a stretcher for air-transporting of said person.

The space in the light aeroplane allowing the reception of a person lying on a stretcher for air-transporting of the person is achievable due to the cabin cell arrangement. None

of the prior art references discloses or suggests a cabin cell long enough or wide enough for accommodating an orthorhombic space of the recited dimensions.

The Examiner has pointed to page 3 of the application as disclosing "IKARUS C42 has a passenger cell that is sufficiently large enough to transport in it a person lying down" (see ¶7 of the original English Specification). However, the Applicant respectfully states that this sentence of ¶7 of the original English Specification is a clear mistranslation of the original text of the German language international application, which reads:

[0007] Derzeit existiert denn auch kein Ultralight- oder Ecolight-Flugzeug, welches eine so grosse Kabine aufweist, sodass zum Beispiel ein Patient darin in liegender Lage transportiert werden könnte, obwohl ja ein liegender Patient nicht schwerer als ein sitzender ist. Hierzu sind die Kabinen aus Gewichtsgründen viel zu klein bemessen, sowohl was deren Breite und noch vielmehr was deren Länge anbetrifft. Auch der zukunftsweisende IKARUS C42 hat eine wesentlich zu kurze Passagierzelle, als dass eine Person liegend darin transportiert werden könnte. Ein grösserer Stauraum wäre aber nicht nur für Patiententransporte wünschbar, sondern auch für verschiedene andere Einsätze eines derart ökonomisch betreibbaren Flugzeuges. (underline added)

Applicant submits that the correct translation of the underlined phrase in above German language paragraph is: "Also the trend-setting IKARUS C42 has a passenger cell that is **essentially too short** (wesentlich zu kurz) for transporting a person in lying condition therein." The Specification of the present application has been amended accordingly. In fact, the Applicant submits that the IKARUS C42 clearly does not provide a cabin having room for a person to lie down. Therefore, the Applicant respectfully states that ¶7 of the present application fails to disclose a passenger cell that is sufficiently large enough to transport in it a person lying down.

The Examiner points to Fronk as disclosing a cabin with room for at least two stretchers and seating to the side of the stretchers. Applicant points out that Fronk, along with many other aircraft, may provide room for a person to lie down or be transported in a

lying condition. However, neither Fronk nor any other cited prior art reference discloses or suggests an aircraft of the very weight-limited and demanding category of the MTOW (e.g., Ecolights, Ultralights, or the US Sports Plane Category (SPC)) that allows the reception of a person lying on a stretcher for air-transporting of the person, as recited in **claim 1**.

For the reasons discussed above, **claim 1** and **claims 2–10**, which depend therefrom, are patentable over pages 1–3 of the Specification alone, or in combination with Fronk.

The www.comco-ikarus.de/ reference discloses a C42 aircraft. However, neither the www.comco-ikarus.de/ reference nor the C42 aircrafts discloses or suggests a cabin cell long enough or wide enough for accommodating an orthorhombic space of the dimensions recited in **claim 1**. Until now, it has seemed impossible to design an aircraft of the very weight-limited and demanding category of the MTOW (e.g., Ecolights, Ultralights, or the US Sports Plane Category (SPC)) that allows the reception of a person lying on a stretcher for air-transporting of the person, as recited in **claim 1**. Therefore, the www.comco-ikarus.de/ reference fails to overcome the deficiencies of pages 1–3 of the Specification or Fronk.

Paragraphs 6–8 of the present application state (underline added):

[0006] The struggle against surplus weight hitherto prevented the construction of larger passenger cells or respectively cargo compartments or never allowed this type of development by the constructors. Constructors always rather tried to build a small and correspondingly light passenger cell using an optimal form so that two people could just fit comfortably.

[0007] At present there is no ultralight or ecolight aeroplane which comprises such a large cabin, so that for example a patient could be transported in a lying position, although a patient in a lying position weighs no more than a person in a sitting position. For this purpose, for weight reasons the cabins are have excessively small dimensions, both in terms of their width and even more so with respect to their length. Also the futuristic IKARUS C42 has a passenger cell that is sufficiently large to transport essentially too short to transport in it a person lying down. A

larger storage space however would be required not only for patient transport, but also for other different single applications of an aeroplane economically operable in such a way. When two people wish to take a journey of several days with an ultralight aeroplane, there is hardly place in the former constructions to accommodate their baggage, even if the carrying of this luggage would be possible without problems for weight reasons. Often storage space is requested for a two-man tent, for fishing or hunting equipment, for cooking apparatuses, for provisions and the like. In case of the known ultralight aeroplanes the space for such things is insufficient. A larger space in the cabin would also be necessary for measuring and photograph flights to accommodate the different device apparatus.

[0008] Therefore, it is the aim of the present invention to create an aeroplane of the ultralight class and sport plane Category, that means with a maximum take-off weight (Maximal Take-Off Weight MTOW) according to regulation of 472.5kg to 590kg, which comprises a much more spacious cabin, so that as a minimum requirement at least one adult person in a lying position on stretcher can be transported.

For these reasons discussed above, it is clear that none of the prior art references discloses or suggests an aircraft of the very weight-limited and demanding category of the MTOW (e.g., Ecolights, Ultralights, or the US Sports Plane Category (SPC)) that allows the reception of a person lying on a stretcher for air-transporting of the person, as recited in **claim 1**. Therefore, **claim 1** and **claims 2–10**, which depend therefrom, are patentable over the combination of pages 1–3 of the Specification, Fronk, and the www.comco-ikarus.de/ reference.

CONCLUSION

For the foregoing reasons, it is submitted that the claims of the present application are in condition for allowance. Early notice thereof is respectfully requested.

It is believed that there is no fee associated with the filing and consideration of this amendment. Should the Commissioner decide that any fee or fee deficiency is due, the Commissioner is hereby authorized to charge any and all such fees, and/or credit any

Amendment Dated July 2, 2009
Reply to Office Action of April 2, 2009

US Application No. 10/554,309

overpayments, incurred as a result of entering this amendment to Deposit Account No.
03-0172, Order No. 30887.04002.

Respectfully submitted,

CALFEE, HALTER & GRISWOLD LLP

/Brian E. Kondas/

Brian E. Kondas
Reg. No. 40,685
Customer No. 24024
(216) 622-8308